

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.14402 of 2009
and M.P.No.1 of 2009

N.Sundaram

... Petitioner

vs.

1. The Director of School Education,
(Higher Secondary),
DPI Complex,
College Road,
Chennai-600 006.
 2. The Chief Educational Officer,
Erode District, Erode.
 3. Thiru Perumalsamy,
The Chief Educational Officer,
Erode District, Erode.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mamdamus, calling for the records of the 2nd respondent in connection with the order passed by him in his proceedings in Na.Ka.No.885/A1/09 dated 30.01.2009 and another order dated 15.05.2009 and quash the same and direct the respondents 1 and 2 to count the service of the petitioner from 01.02.2009 to 31.05.2009 for the purpose of pension and other retirement benefits, including the salary.

For Petitioner : Mrs.Kiruthika
For M/s.M.Srividhya
For R1 & R2 : Mrs.P.Kavitha
Govt. Advocate
For R3 : No Appearance

O R D E R

Petitioner has come up with this Writ Petition, challenging the proceedings of the 2nd respondent in Na.Ka.No.885/A1/09 dated 30.01.2009 and the subsequent order dated 15.05.2009, by which the petitioner's request for re-employment was rejected.

The petitioner also sought for a direction to the respondents 1 and 2 to count the service of the petitioner from 01.02.2009 to 31.05.2009 for the purpose of pension and other retirement benefits, including the salary.

2. It is the case of the petitioner that he worked as Head Master, Government Girls Higher Secondary School, Bhavani, Erode District and attained the age of superannuation on 31.01.2009. According to him, he is entitled to continue in service till the end of the academic year, viz., 31.05.2009 as per the Government Orders in force. It is further case of the petitioner that the 2nd respondent has not permitted him to continue his service on re-employment on account of the grudge that he had filed Writ Petitions in W.P.No.18203 of 2004 and W.P.No.540 of 2006 and obtained stay order against his transfer. It is also the case of the petitioner that there was no complaint pending against him and inspite of his representation dated 10.02.2009 followed by a reminder dated 24.03.2009 to the respondents, his request got rejected vide orders impugned herein. Aggrieved by the same, the petitioner is before this Court.

3. Mrs.P.Kavitha, learned Government Advocate appearing for the Respondents 1 and 2 contended that there were several complaints received against the petitioner in respect of misappropriation of funds of Parents-Teachers Association and his ill behaviour towards a lady Teacher. Pursuant to receipt of several complaints, he was transferred to some other place and because of the stay orders granted by this Court, he continued in the same place. She further contended that the 2nd respondent, after analyzing the overall attitude of the petitioner in extenso, had rejected the request of the petitioner for re-employment, which does not warrant any interference by this Court.

4. Heard the learned counsel for the respective parties and perused the material documents available on record.

5. The learned Government Advocate, at the time of argument, drew the attention of this Court to G.O.Ms.No.1643 dated 27.10.1988, wherein the following conditions have been laid down for accepting the request of re-employment to be made by the employees like that of the petitioner:

i) The conduct and character of the teachers seeking reemployment should be satisfactory;

ii) The teacher has to produce certificate from the Government Medical Officer to the effect that he is physically fit to continue in reemployment period;

iii) There should not be any pending charges.

6. In the impugned proceedings dated 30.01.2009, it has been categorically stated that on the basis of a complaint, an enquiry was conducted against him by the District Educational Officer on the instruction of the District Collector and finding prima facie material against him, he was transferred to some other school, namely, Government Boys Higher Secondary School, Bhavani and on account of the stay order granted by this Court, he was allowed to work in the same place till his retirement. It was also alleged that he misbehaved with a lady Teacher. If a person like the petitioner is given extension of service, the safe and security of girl students would be doubtful. The role of a Teacher / Headmaster is equivalent to that of a Sculptor, who, with his profuse efficiency shapes a material like stone or wood, by whittling away at it. Likewise, a Teacher or Headmaster plays a predominant role in bringing out the dreams of students into reality so as to make them shine in the society like stars and because of the act of few black sheep in the profession, the entire teaching fraternity lose their reputations in the society.

7. This Court, while dealing with the issue of surplus teachers in the case of T.Paulraj vs. State of Tamil Nadu and others [W.P.(MD)No.19848 of 2018] decided on 19.09.2018, extended certain suggestions to the Government in respect of consideration of the request of Teachers, seeking re-employment till the completion of academic year and a Government Order was also issued to that effect. When the morality of the petitioner itself is dubious, this Court cannot blindly direct the respondents to consider his name for re-employment. That apart, the petitioner cannot as a matter of right demand for re-employment and it is left to the discretion of the concerned Authority to consider the request of such employees based on his/her merit, ability and fitness. Since the conduct and character of the petitioner seeking re-employment is far from satisfactory, which is evident from his transfer to neighbouring Boys Higher Secondary School, this Court is not inclined to grant the relief sought for by the petitioner.

8. In the result, this Writ Petition fails and the same is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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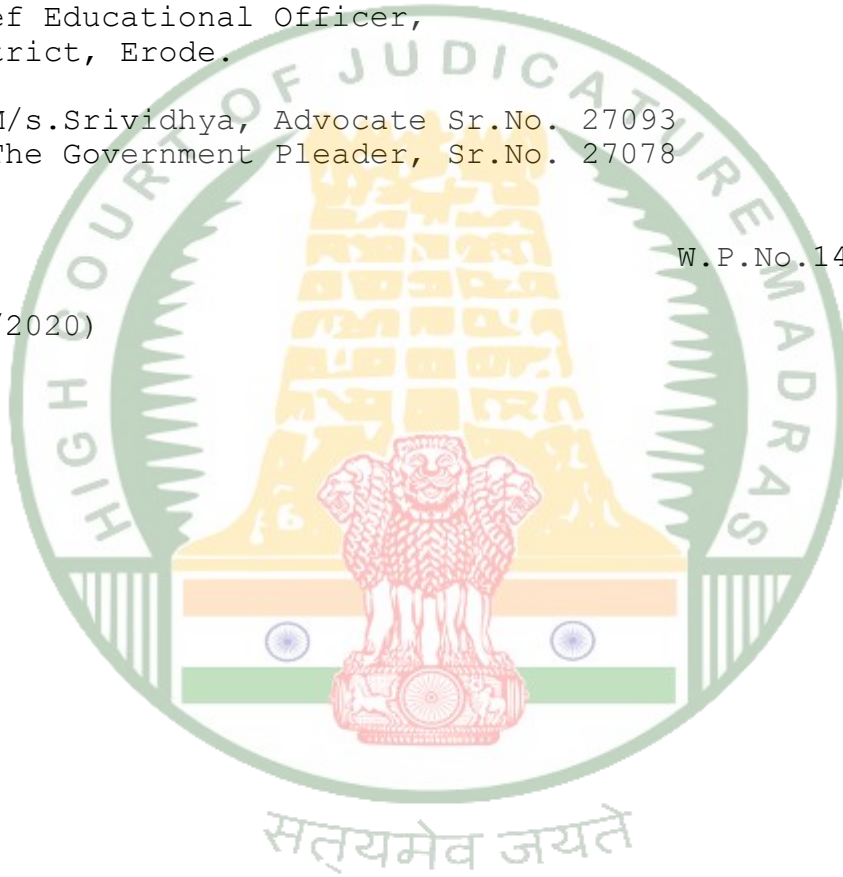
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+1 cc to M/s.Srividhya, Advocate Sr.No. 27093
+1 cc to The Government Pleader, Sr.No. 27078

W.P.No.14402 of 2009

NMI (CO)
RMP (07/12/2020)



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